

Consumer Data Right rules amendments (Version 3)

MYOB Submission
30 July 2021

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Dear Treasury,

MYOB welcomes the opportunity to provide the Consumer Data Right Division with our position on the Consumer Data Right (CDR) rules, version 3. We believe the success of CDR lies in having rules that bolster consumer trust and strengthen consumer control over their data.

We also believe Australia has a significant opportunity to create a privacy ecosystem that fosters innovation, enhances consumer-provider relationships, and enables Australian businesses to grow and succeed.

We applaud the Government's work to date on CDR and thank Treasury for their considered engagement with MYOB as these rules have matured and taken shape. The latest rule updates show a genuine effort to ensure businesses can continue to be managed with minimal interruption. However, as currently drafted, some of the rules risk interrupting business flows, potentially jeopardising how Australians get paid and how businesses grow.

We also know one in five SMEs – nearly half a million businesses – have no or very low engagement with digital tools. To ensure consumers with varying degrees of digital comfort understand the CDR obligations, how to use them and how to comply with them, we think the rules could benefit from some additional clarity.

Australia has an opportunity to create a world-leading innovative and secure business landscape. By ensuring the rules reflect how Australian businesses operate, focusing on future growth and placing consumer control and consent at the heart of the CDR, Australia can create a landscape where businesses of all sizes can thrive.

If you require further information or have any questions, please contact Liv Monaghan at liv.monaghan@myob.com.

Yours sincerely,



Helen Lea
Chief Employee Experience Officer
MYOB

MYOB SUBMISSION: CONSUMER DATA RIGHT RULES AMENDMENTS (VERSION 3)

BACKGROUND

MYOB has been a trusted Australian business platform for 30 years, providing local solutions to a significant proportion of the small business, accounting and bookkeeping communities across Australia and New Zealand.

With a core purpose of helping more businesses in Australia and New Zealand start, survive and succeed, MYOB delivers end-to-end business, financial and accounting solutions direct to businesses employing between 0 and 1000 employees, alongside a network of accountants, bookkeepers, and consultants.

With the understanding that a small business is a consumer within the Consumer Data Right (CDR) regime, this submission outlines MYOB's recommended changes to the current CDR rules to ensure small businesses can continue to work effectively with their chosen and trusted partners.

MYOB welcomes the Government's work to progress the CDR in a way that is reflective of how business is done in Australia, and in the spirit of creating a standardised framework that promotes competition while seeking to ensure consumers remain in control of their data.

MYOB CDR Policy Points

We believe CDR is a catalyst for innovation as it will promote the development of new product solutions to meet consumer demand for digital efficiencies. MYOB is a financial product innovator and welcomes a regulatory future where we can increase the number of technology solutions we design, build and offer to our customers.

A business environment characterised by trust is one that is crucial for growth. We are proud to be a trusted body in the Australian business community, and we remain committed to securing opportunities for Australian businesses to grow and succeed. We believe that an extended CDR framework with appropriate safeguards is crucial to safe and secure business growth.

To that end, and to ensure our submission is reflective of modern business practices, MYOB continues to engage with relevant industry bodies, other accounting and business management platforms, Government, and our broad customer base.

We thank the Government for their consultative approach to designing the CDR to date and would welcome the opportunity to discuss anything contained in this submission further with Government.

ENHANCEMENT OPPORTUNITY: TRUSTED ADVISERS

MYOB considers the current drafting of the Trusted Adviser model to be the main risk point to the future operability and successful adoption of the CDR.

MYOB welcomes the inclusion of rules accommodating Trusted Advisers (TAs) in the CDR. We believe in enabling consumers to securely share their data with the business adviser of their choosing, and for bookkeepers and accountants to access their customers' data easily and securely.

We believe it is crucial that ways of doing business are not interrupted by the CDR and continue to encourage continuity of consent and data control. We are keen to see Australia's CDR regime be rolled out successfully across the economy and consider the ability for consumers to control access their data as crucial to CDR's take up.

We are concerned that the current approach to the TA model risks disturbing Australian small business flows by:

- Not capturing all advisers; and
- Potentially creating in-operability between different business management platforms.

Further, we think greater clarity is needed on how data accessed by a TA sits within the CDR regime, how the different sponsorship models interoperate, and the dashboard responsibilities for accredited entities.

MYOB is, however, heartened by Treasury's effort to ensure the TA model is representative of business operations and regulatory constraints. We consider the inclusion of rules relating to TAs as an important development in the CDR regime. The TA model is central to the CDR's core aim of enabling consumers to control access to and use of their data and, with some updates to the current drafting, this aim can be achieved.

1. Advisers captured by the current TA model

As currently drafted, the TA model applies to accountants, but does not fully capture bookkeepers and informal employees (Section 1.10C(2)(a)-(f)).

To allow consumers to continue to do business, we believe accountants, bookkeepers (both professional and informal) should have the same coverage under CDR. Bookkeepers play a fundamental role for SMEs, rationalising and operationalising the data necessary to do business. By not fully capturing the bookkeeper community, these core business functions risk falling back on the business owner and increasing business pressures.

We understand Treasury considers the inclusion of 'BAS Agents' to capture bookkeepers in a manner consistent with existing regulatory standards. However, there is a notable gap between registered bookkeepers and BAS agents. There are 250,000 registered independent bookkeepers in Australia, and only 25,000 registered BAS agents¹. We know bookkeepers represent a significant percentage of the trusted advisor community; MYOB's own data shows one in five TA community members are bookkeepers². We are concerned the gap between bookkeepers with and without BAS agent qualifications will cause a significant gap in CDR application. In effect, this risks disrupting current business methods and removing the ability for Australians to control their data and its access.

Further, we know many small businesses rely on trusted individuals rather than professionals to manage their accounts and business processes. This can be for a variety of reasons, including limited funds available to pay for professional support.

¹ Data provided by the Institute of Certified Bookkeepers (ICB).

² Kantar 2020 – MYOB. Survey based on 1652 SMEs.

In many industries, such as construction, we know the role of business and office manager often falls to a trusted family member³. These individuals, while not accredited or members of professional associations, are trusted by the consumer to access their data. We are concerned that by limiting the application of TA to only those with professional memberships or accreditations the CDR in effect is shutting out the informal adviser, limiting who a consumer can trust with their data.

In addition, we note the CDR is intended to grow with the Australian economy. We are concerned that providing a prescriptive list of who can and cannot act as a TA not only risks limiting consumer control over their data, but also limits the ability for the CDR to be future-proof.

We believe the TA model should not prevent sectoral growth and innovation in business and account management processes.

MYOB Recommendations:

- Provide equal application of the TA model to accountants and bookkeepers. Enabling accountants and bookkeepers to have equal access to data is key to maintaining business flows. This will ensure accounts can continue to be processed and pay can continue to be delivered with both ease and consumer trust.
- Continue engagement with industry bodies and representatives to provide holistic definitions where needed. Should Treasury continue with the approach of defining TAs, continued engagement with industry bodies and representatives will be essential in providing definitions that capture all members.
- Adjust the TA model to ensure consumers remain in control over who accesses their data. We recommend either removing or significantly adjusting the list of TAs to ensure it is open enough to reflect how business is currently done in Australia, and to capture future growth in business management processes.

2. Potential inoperability between business management platforms

As currently drafted, the CDR rules require Authorised Data Recipients (ADRs) to take reasonable steps to confirm a party's authorisation to access CDR data under the TA model (Section 7.5A(3)).

Many accountants and bookkeepers rely on multiple business management platforms to transfer and access data. Placing this onus on individual ADRs risks creating gaps between who is considered by different ADRs to be in and out of the CDR regime. At best, this is likely to cause delays in processing consumers data and, at worst, it could disrupt current business management processes through interrupting the current interoperability.

Further, it is not clear what 'reasonable steps' an ADR would be required to take to verify the status of TAs under the legislative regimes applying to the various professions listed in Section 1.10C(2). In some cases, privacy requirements would make it impossible to verify whether a person is a member of a class of trusted advisers – for example, there is no independent register of qualified accountants within the meaning of the Corporations Act, so verifying that qualification would require ADRs to request individuals to disclose that information.

³ Guidance provided by Master Builders Australia (MBA). For further information see Randstad, 'Women in Construction', <https://www.randstad.com.au/s3fs-media/au/public/migration/employers/areas-of-expertise/construction-property/randstad-women-in-construction-report-smashing-through-a-concrete-wall.pdf>

We welcome Treasury's advice that the reasonability test is intended to provide sufficient flexibility to enable ADR's to tailor a verification approach that best suits its own environment, and we agree flexibility is key to making this requirement work in practice. However, we are concerned that this requirement risks undermining public faith in the CDR regime. By requiring ADRs to confirm who is and is not a TA, consumers' trust and consent is placed in the hands of business – an ADR may override a consumer's choice as to who they trust to have access to their data.

MYOB already builds consumer consent into our data flow processes (see Section A). However, should it be required, building additional points of consent into platforms is not a difficult task, and it is easy to both track and manage.

We believe consumers' consent and control should be at the heart of the CDR. We are keen to see the CDR regime roll-out successfully and securely across the economy and consider public trust to be essential to the regime's success.

MYOB Recommendations:

- Rely on consumer control and responsibility for consent, rather than an external party approach to authorisation. Placing the onus on business to authorise TAs risks requiring multiple points of authorisation and creating platform inoperability. Further, businesses should not have responsibility for determining who a consumer can trust.

3. Greater clarity on technical points

To reassure consumers that their business will not be disrupted by the CDR, we believe greater clarity is needed in the rules on how data accessed by TAs sits within the CDR, and on how the different sponsorship models interoperate. Further, to ensure businesses are CDR-ready, we believe greater clarity is needed on the dashboard responsibilities for accredited entities.

How data accessed by TAs sits within the CDR

We have heard through our industry consultation that Treasury has provided verbal confirmation that once data is accessed by a TA it falls outside the scope of the CDR. We consider this to be an important component in ensuring it remains easy for Australians to do business – requiring duplicate checks or regulatory steps on the same datasets will slow down existing processes. As such, we welcome the advice that, once consent and trust is provided, the data sits outside the CDR. However, we think the rules would benefit from having that condition clearly outlined.

How the different sponsorship models interoperate

We thank Treasury for their clarification that all data flow models contained in the CDR - the Consumer/Principal, Sponsor/Affiliate and TA models – are intended to allow for two-way flows of information. To ensure businesses of all sizes and capabilities understand the functional relationship of, and between, each of the models, we feel greater clarity is needed in the rules or accompanying documents.

In doing so, the CDR will become an easy-to-use piece of regulation. We know from our own data that many small businesses struggle to engage with and adopt digital processes – 20 per cent of Australian businesses have no digital presence⁴. We believe that providing this clarity will therefore

⁴ MYOB, 'Closing the Digital Gap' (2021), accessible via https://www.myob.com/content/dam/public-website/docs/misc/Closing%20Digital%20Gap_White%20Paper.pdf

have two main benefits: it will make it clear that the CDR will not interrupt existing business processes; and it will demonstrate that the CDR is a tool designed to assist consumers.

Dashboard responsibilities for accredited entities

We would welcome greater clarity on the consumer dashboard responsibilities for accredited providers under the Consumer/Principal model. To ensure consumer dashboard requirements fully meet CDR obligations, it is important that businesses have clarity on their responsibilities and requirements.

In particular, we feel clarity is needed on the accredited providers' responsibility to ensure the representative of the principal has their own consumer dashboard capability.

MYOB Recommendations:

- Include language clarifying:
 - a. that data accessed with consent by a TA sits outside the CDR;
 - b. how the different sponsorship models interoperate; and
 - c. dashboard responsibilities for accredited entities.
- Include additional case studies in the supporting documents on how data flows in and between each of the models.

SUMMARY

MYOB thanks the Government for the opportunity to submit views on CDR Rules Amendment (Version 3). We welcome the opportunity to continue our engagement with Treasury to find solutions that reflect and maintain modern business practices while upholding public trust. Clear rules facilitating Trusted Adviser access, that place fundamental importance on consumer's data control, will be crucial to ensuring the regime's success.

We are developing our model for a consumer dashboard to meet our CDR obligations in a way that is user-friendly and ensures consumer control of their data and consents and would welcome the opportunity to unpack the thinking behind our model with Treasury.

We are enthused by the progress to date on the CDR and look forward to being part of the regime's continued development.

SECTION A

Consent and Data Flows – MYOB

When Small to Medium Enterprise (SME) invites Partner/Advisor engagement

Step	Individual SME and Partner/Advisor action	Data controls and actions
1.	SME selects the 'Advisor' from their dashboard profile	
2.	SME invites the advisor by email through our system to access their data	Our platform also provides the option to resend or withdraw the option at this stage
3.	Partner/advisor receives an invitation in their email	When they accept, the SMEs relevant data then appears in their MYOB platform on their list of business.
4.	SME is notified by email that the partner/advisor has accepted their invitation	Partner/advisor access can be removed at this stage
5.	Partner/advisor sets up SME client's account	
6.	SME business now appears on the Essentials Partner Dashboard and on Practice Online	Partners can now view the SME's Essentials account and set it up

When a Partner/Advisor invites a SME to use MYOB

Step	Individual SME and Partner/Advisor action	Data controls and actions
1.	Partner creates a business on the Essentials Partner Dashboard	
2.	Partner invites SME by email and assigns them an 'Admin' role	
3.	SME receives an invitation by email	Clicking 'accept' takes them to MYOB log-in page and enables them to sign up or log-in to exiting MYOB account
4.	Once signed up or logged-in, SMEs can access their Essentials account	Partner/advisor access can be removed at this stage
5.		Partner/advisor can choose to hand business over to the SME

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